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No. 07-1278

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In The

Supreme Court of the United States

DARYL DAHLQUIST,

Petitioner,

v.

PATRICK G. VUKICH,

Respondent.

On Petition For A Writ Of Certiorari To The Court Of Appeals Of The State Of Washington

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

ROBERT JACKSON
Attorney for Respondent
HERMAN, RECOR, ARAKI, KAUFMAN SIMMERLY & JACKSON PLLC
2100 – 116th Avenue NE
Bellevue, Washington 98004
(425) 451-1400
(425) 451-1689 Fax

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

IDENTITY OF ANSWERING PARTY

Patrick Vukich, Respondent, hereby provides this brief in opposition to the Petition of Daryl Dahlquist, Petitioner, seeking review in the Supreme Court of the United States of a decision of the Washington State Supreme Court denying Dahlquist's Petition for Review.

BASIS OF OBJECTION TO THE PETITION FOR REVIEW

Under the considerations governing review on certiorari set forth in Supreme Court Rule 10, Dahlquist's Petition for Writ of Certiorari should be denied. Mr. Dahlquist claims that there is a significant constitutional issue in his case. This case was actually about Mr. Dahlquist's lack of timeliness in pursuing his claim, and his untimely attempt to circumvent and collaterally attack a final order from 1995 requiring him to obtain permission before filing suit against Mr. Vukich.

The final order from which Mr. Dahlquist appeals is not the decision of the Washington State Court of Appeals, as erroneously stated by Mr. Dahlquist under his statement of jurisdiction. Rather it is the decision of the Washington State Supreme Court denying Dahlquist's Petition for Review of the decision of the Court of Appeals. Mr. Dahlquist's Petition for review to the Washington State Supreme Court was not filed timely under Washington Court Rule of

Appellate Procedure (RAP) 13.4(a), as it was filed on March 5, 2007, more than 30 days after the February 2, 2007 decision of the Court of Appeals. That untimeliness in filing his Petition to the Washington State Supreme Court alone provides a sufficient basis for the Washington Supreme Court's denial of Dahlquist's Petition for Review.

Even in the Washington State Court of Appeals, Dahlquist mentioned the First Amendment issue for the first time in his Reply Brief, and only provided legal authority to the court and counsel just four days before oral argument. See Commissioner's Ruling Granting Motion on the Merits to Affirm at page 7 of the Appendix to Petitioner's Petition for Writ. (App. 7) The court found the briefing to be inadequate, and noted that a party may not "compel the court to scour the legal landscape to make sense of vague and general assertions of law thrown together . . . " (App. 5). Mr. Dahlquist's First Amendment argument was not denied because it was raised for the first time on appeal. It was denied because it was raised for the first time in a supplemental response to motion on the merits, was inadequately briefed, lacked merit, and was launched as a collateral attack on a final order that was more than ten years old.

The 1995 order requiring Dahlquist to seek permission before filing legal action against Mr. Vukich was never appealed by Dahlquist. The trial court in its 1995 order noted that Dahlquist's counterclaims raised the issue of adverse possession that had already been litigated in 1990. Dahlquist had

deliberately trespassed and placed trash and a trailer on Mr. Vukich's property, and had filed wild deeds that clouded Mr. Vukich's title. He was also enjoined from those actions. Dahlquist persisted, and was found in contempt. The court noted: "Defendant, Daryl Dahlquist's defenses and claims of title are without merit. There is no legal basis for his arguments. His submissions have been lengthy, but virtually incomprehensible. This has been an abuse of the judicial process." (Commissioner's Ruling App. 10, footnote 9). Eventually judgments for damages were awarded against him, which were the basis for the foreclosure action that Dahlquist claims was a violation of his homestead rights.

In his Statement of the Case, Dahlquist claims that the property purchased at the sheriff's sale was worth $160,000. The property foreclosed upon was a one-third interest of a tenant in common. Dahlquist never provided competent professional evidence of the value of the partial interest, and Vukich objects to his insertion of that value into the Statement of the Case.

Mr. Dahlquist did not appeal or seek to set aside the order requiring him to obtain permission before suing Mr. Vukich. Instead, he simply ignored it and proceeded to file suit, which was rejected in compliance with the order. Dahlquist never provided any authority that under Washington law he may challenge the 1995 order collaterally by violating it. *Tory v. Cochran*, 544 U.S. 734, 125 S. Ct. 2108, 161 L. Ed. 2d 1042, cited by Dahlquist, involved a question of mootness in a direct and timely appeal of a permanent

injunction on speech. The Supreme Court cited California law permitting a party to wait until a violation of an injunction is alleged to challenge the validity of the injunction. Washington law is to the contrary. *State v. Alter,* 67 Wn. 2d 111, 406 P.2d at 765 (1965). In Washington, an order valid on its face and not void for lack of jurisdiction, must be followed unless and until it is set aside. *State v. Noah*, 103 Wash. App. 29, 44, 9 P.3d 858 (Div. I, 2000).

Even if Mr. Dahlquist had legally challenged the 1995 order, by appealing it or moving to set it aside, the order was justified by his history of repeated trespass in violation of court orders, filing of bogus deeds to cloud title, and raising of frivolous counterclaims when Vukich moved to clear his title. The court found this to be a misuse of the legal system.

When Dahlquist came before the court in 2005, belatedly seeking permission to file suit against Vukich, he had established a long history of contempt, trespass, and even trying to force a court to make a citizens' arrest of Vukich. The court's decision to screen any lawsuit attempted to be filed by Dahlquist against Vukich was justified by Dahlquist's actions.

CONCLUSION

The petition for a Writ of Certiorari in this matter should be denied.

Respectfully submitted,

ROBERT B. JACKSON
Attorney for Respondent